

CLAIM AFFIDAVIT
(See Instructions on Reverse Side)

Form 2

Cass County, North Dakota

09-2024-SC-16
Case No.

Full Name of Person(s) Filing Claim (PLAINTIFF(S)) Red River Refrigeration, Inc.			
Address 160 8th Ave NW	City West Fargo	State ND	Zip Code 58078
Occupation HVAC/Refrigeration Service & Install Corp		Telephone Number 701-277-1739	

Full Name of Person(s) You are Suing (DEFENDANT(S)) Todd Beedy Beedy			
Address 300 Broadway N	City Fargo	State ND	Zip Code 58102
Occupation Erbert and Gerbert Owner		Telephone Number 701-478-7827 701-306-5045	

PLAINTIFF(S) claims the following from the DEFENDANT(S): (Give a SHORT statement of the claim, reasons for the claims, and the amount you are suing for. TOTAL AMOUNT CLAIMED \$ 6457.99 PLUS COURT COSTS.

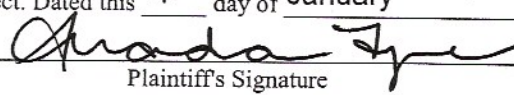
Invoice \$6,103.69

Finance Charges 354.30

Total \$6,457.99 + Court Costs

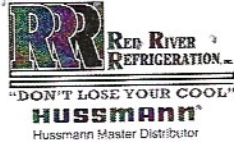
(Attach additional sheet if necessary.)

I declare under penalty of perjury that the foregoing is true and correct. Dated this 4 day of January, 2024.
Cass County, North Dakota.


Plaintiff's Signature

**NOTICE TO DEFENDANT: REQUEST FOR HEARING/
REMOVAL TO DISTRICT COURT**

If you, the Defendant, intend to contest this claim and request a hearing in small claims court, or request removal of this case to District Court, you must file your REQUEST FOR HEARING/REMOVAL TO DISTRICT COURT (Form 3) with the Clerk of District Court within 20 days of receipt of this Claim Affidavit.



Red River Refrigeration
160 8TH Ave NW
West Fargo, ND 58078
UNITED STATES
(701)-277-1739

ATTN: ERBERT & GERBERTS - 25TH
3060 25TH ST S
FARGO, ND 58103

PAGE 1
DATE 1/4/2024
ACCOUNT NO ERBSF
CURRENCY ID USD
AMOUNT DUE 1,831.55
TERMS DUE ON RECEIPT

CURRENCY ID

INVOICE DATE	INVOICE NO	TYPE	PO/CHECK NO	CHARGES	CREDITS	BALANCE
USD						
6/28/2023	26751	Inv		358.00	0.00	358.00
7/17/2023	27644	Inv		317.44	0.00	317.44
8/31/2023	30935	Inv		358.00	0.00	358.00
9/18/2023	31407	Inv		218.90	0.00	218.90
10/27/2023	33546	Inv		145.00	0.00	145.00
12/13/2023	35389	Inv		358.00	0.00	358.00
9/7/2023	FIN CHRG08-2023	Fin		10.13	0.00	
8/10/2023	FIN CHRG08-2023	Fin		5.37	0.00	
	FIN CHRG08-2023					15.50
10/31/2023	FIN CHRG10-2023	Fin		18.79	0.00	18.79
12/7/2023	FIN CHRG11-2023	Fin		20.96	0.00	20.96
1/2/2024	FIN CHRG12-2023	Fin		20.96	0.00	20.96

Seriously past due. Please remit.

Activity after 1/4/2024 will be reflected on your next statement.

YTD Finance Charges added to your account		20.96	New Finance Charges		0.00
CURRENT	31 - 60 DAYS	61 - 90 DAYS	OVER 90 DAYS	FINANCE CHARGE	AMOUNT DUE
358.00	0.00	145.00	1,252.34	76.21	1,831.55

To avoid additional charges pay by Closing Date 1/4/2024



Red River Refrigeration
160 8TH Ave NW
West Fargo, ND 58078
UNITED STATES
(701)-277-1739

ATTN: ERBERT & GERBERTS - MHD
212 8TH ST S
MOORHEAD, MN 56560

PAGE 1
DATE 1/4/2024
ACCOUNT NO ERBERT
CURRENCY ID USD
AMOUNT DUE 1,610.41
TERMS DUE ON RECEIPT

CURRENCY ID

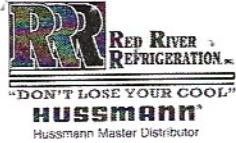
INVOICE DATE	INVOICE NO	TYPE	PO/CHECK NO	CHARGES	CREDITS	BALANCE
USD						
6/28/2023	26753	Inv		337.00	0.00	337.00
8/10/2023	29073	Inv		705.88	0.00	705.88
9/18/2023	31400	Inv		337.00	0.00	337.00
12/15/2023	35621	Inv		158.31	0.00	158.31
9/7/2023	FIN CHRG08-2023	Fin		5.06	0.00	
8/10/2023	FIN CHRG08-2023	Fin		5.06	0.00	
	FIN CHRG08-2023					10.12
10/31/2023	FIN CHRG10-2023	Fin		20.70	0.00	20.70
12/7/2023	FIN CHRG11-2023	Fin		20.70	0.00	20.70
1/2/2024	FIN CHRG12-2023	Fin		20.70	0.00	20.70

Seriously past due. Please remit.

Activity after 1/4/2024 will be reflected on your next statement.

YTD Finance Charges added to your account		20.70	New Finance Charges		0.00
CURRENT	31 - 60 DAYS	61 - 90 DAYS	OVER 90 DAYS	FINANCE CHARGE	AMOUNT DUE
158.31	0.00	0.00	1,379.88	72.22	1,610.41

To avoid additional charges pay by Closing Date 1/4/2024



Red River Refrigeration
160 8TH Ave NW
West Fargo, ND 58078
UNITED STATES
(701)-277-1739

ATTN: ERBERT & GERBERTS - BROADWAY
300 BROADWAY
FARGO, ND 58102

PAGE 1
DATE 1/4/2024
ACCOUNT NO ERBBD
CURRENCY ID USD
AMOUNT DUE 531.70
TERMS DUE ON RECEIPT

CURRENCY ID

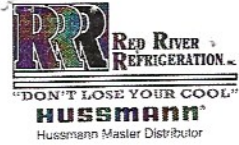
INVOICE DATE	INVOICE NO	TYPE	PO/CHECK NO	CHARGES	CREDITS	BALANCE
USD						
9/22/2023	31673	Inv		260.00	0.00	260.00
12/13/2023	35403	Inv		260.00	0.00	260.00
10/31/2023	FIN CHRG10-2023	Fin		3.90	0.00	3.90
12/7/2023	FIN CHRG11-2023	Fin		3.90	0.00	3.90
1/2/2024	FIN CHRG12-2023	Fin		3.90	0.00	3.90

Seriously past due. Please remit.

Activity after 1/4/2024 will be reflected on your next statement.

YTD Finance Charges added to your account				3.90	New Finance Charges	0.00
CURRENT	31 - 60 DAYS	61 - 90 DAYS	OVER 90 DAYS	FINANCE CHARGE	AMOUNT DUE	
260.00	0.00	0.00	260.00	11.70	531.70	

To avoid additional charges pay by Closing Date 1/4/2024



Red River Refrigeration
160 8TH Ave NW
West Fargo, ND 58078
UNITED STATES
(701)-277-1739

ATTN: ERBERT & GERBERTS - BISMARCK
931 S 9TH ST
BISMARCK, ND 58501

STATEMENT

PAGE 1
DATE 1/4/2024
ACCOUNT NO ERBBIS
CURRENCY ID USD
AMOUNT DUE 2,484.33
TERMS DUE ON RECEIPT

CURRENCY ID

INVOICE DATE	INVOICE NO	TYPE	PO/CHECK NO	CHARGES	CREDITS	BALANCE
USD						
5/23/2023	24624	Inv		1,013.29	0.00	1,013.29
6/20/2023	26018	Inv		649.87	0.00	649.87
9/29/2023	32126	Inv		145.00	0.00	145.00
10/6/2023	32351	Inv		337.00	0.00	337.00
10/27/2023	33559	Inv		145.00	0.00	145.00
6/1/2023	FIN CHRG04-2023	Fin		7.98	0.00	
7/1/2023	FIN CHRG04-2023	Fin		20.25	0.00	
	FIN CHRG04-2023					28.23
9/7/2023	FIN CHRG08-2023	Fin		30.00	0.00	
8/10/2023	FIN CHRG08-2023	Fin		30.00	0.00	
	FIN CHRG08-2023					60.00
10/31/2023	FIN CHRG10-2023	Fin		32.18	0.00	32.18
12/7/2023	FIN CHRG11-2023	Fin		39.41	0.00	39.41
1/2/2024	FIN CHRG12-2023	Fin		34.35	0.00	34.35

Seriously past due. Please remit.

Activity after 1/4/2024 will be reflected on your next statement.

YTD Finance Charges added to your account				34.35	New Finance Charges	0.00
CURRENT	31 - 60 DAYS	61 - 90 DAYS	OVER 90 DAYS	FINANCE CHARGE	AMOUNT DUE	
0.00	0.00	482.00	1,808.16	194.17	2,484.33	

To avoid additional charges pay by Closing Date 1/4/2024

**SMALL CLAIMS COURT
INFORMATION**

IMPORTANT: To Protect Your Rights read carefully this information, and any instructions to which you are referred.

Small Claims Court is a division of district court where cases may be heard that involve recovery of money or cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise. The Small Claims Court was established so citizens could present their own cases to the court without the assistance of an attorney.

Claims may be filed in Small Claims Court if:

1. The amount claimed does not exceed \$15,000, and
2. No more than six years has elapsed since the date of the debt or date of the last payment.
(This time period may vary under certain circumstances.)

In Small Claims Court you:

1. Need NOT hire an attorney. (The judge will assist both parties in presenting their case.)
2. Do not have the right to trial by jury.
3. Do not have the right to appeal the decision of the judge.

You may elect to have your case heard in district court in which case you:

1. May find it necessary to hire an attorney.
2. May have the right to a trial by jury.
3. Have the right to appeal the decision of the judge.

If a claim is filed in Small Claims Court:

1. The Plaintiff may not change his or her mind and have the case moved to District Court.
2. The Defendant may have the case heard in Small Claims Court, or have the case moved to District Court by filing the REMOVAL TO DISTRICT COURT (Form 3) within 20 days of receipt of the Claim Affidavit and serving a copy of Form 3 on the Plaintiff. See Instructions for Form 3 for additional filing and fee requirements. **NOTE:** If the Defendant elects to remove the action to district court, the district court must award attorney's fees to a prevailing plaintiff.
3. If the Defendant appeals a District Court judgment to the Supreme Court, the Supreme Court shall award reasonable attorney's fees to the winning appellee.

WHERE A CLAIM IS FILED:

- a. If the defendant is a corporation or a partnership, a claim must be filed in any county in which the defendant has a place of business or in any county in which the subject matter of the claim occurred.
- b. If the claim is for collection of a check written without sufficient funds or without an account, a claim must be filed in the county where the check was passed or in the county of the defendant's residence or place of business.
- c. If the defendant is an individual and the claim is for collection of an open account on which credit has been extended:
 - (1) The claim must be filed in the county of the defendant's residence or place of business: OR
 - (2) If the amount of the claim is less than one thousand dollars and is not from a telephone or mail order transaction, the claim must be filed in the county where the transaction occurred or in the county of the defendant's residence or place of business.
- d. If the defendant is an individual and the claim is not made under b or c (above) the claim must be filed in the defendant's county of residence.
- e. If the defendant is an individual and the claim arose as the result of the defendant's lease of real property or as the result of a dispute over disposition of earnest money or other money deposit arising from a contract to purchase real property, in the county where the real property is located unless the plaintiff and the defendant consent in writing to a proceeding in a different county.
- f. If the plaintiff is a political subdivision and the claim is for a public utility debt, the claim must be filed in the county in which the political subdivision is located.

Generally, the defendant may elect to remove the action to a small claims court in the defendant's county of residence. However, if the claims involves a matter under c, e, or f above, the defendant CANNOT REMOVE the action to the county of residence.

IMPORTANT INFORMATION

1. Only the Court can change the time of the hearing.
Request for a change must be made to the Small Claims Division of the District Court.
2. Even if you get a judgement in your favor (you win), you might not get your money!
(If a person is unemployed, does not have any property of sufficient value, or is on some type of assistance, it may be impossible to collect.)
3. Take to the hearing all receipts and evidence related to the case and any witnesses that you wish to have testify on your behalf.
Keep track of all your costs related to the case (such as cost of serving papers).
If you win, the judge may order the losing party to pay your costs.
4. The judgment debtor (the losing party) has 30 days from the date of Notice of Entry of Judgment in which to pay the judgment sum. Failure to do so means the judgment creditor (the winning party) may start collection proceedings through the Sheriff.

PLAINTIFF - (The person initiating this action)

See important Instructions on the back of Form 2 – Claim Affidavit.

DEFENDANT - (The person being sued)

See important Instructions on the back of Form 4 – Defendant's Answer and Counterclaim

**DEFENDANT'S REQUEST FOR HEARING/
REMOVAL TO DISTRICT COURT**
(See Instructions on Reverse Side)

_____, Plaintiff(s). CASE NO. _____
_____, Defendant(s). _____ County, North Dakota

REQUEST FOR HEARING

If you, the Defendant, intend to contest this claim and Request a Hearing in small claims court, you must file your request with the Clerk of District Court within 20 days of service of the Claim Affidavit and this form.

_____ I request a hearing in small claims court.

Defendant's Signature

REMOVAL TO DISTRICT COURT

If you, the Defendant, request removal of this action to District Court, you must file your request with the Clerk of District Court within 20 days of service of the Claim Affidavit and this form.

_____ I request removal of this action to District Court.

Defendant's Signature

(THERE IS AN \$80.00 FILING FEE FOR FILING THE REMOVAL TO DISTRICT COURT. THE FILING FEE MAY BE WAIVED BY THE COURT IF YOU ARE UNABLE TO PAY AND SUBMIT THE REQUIRED PROOF OF YOUR FINANCIAL STATUS.)

NOTICE OF HEARING

A request for Hearing having been received from the above named Defendant(s) in this action;

The Plaintiff(s) and Defendant(s) are hereby notified that a small claims hearing has been scheduled in the above entitled case at _____ in the city of _____, North Dakota, on the _____ day of _____, 20_____, at _____ o'clock _____ m.

Dated _____

Judge/Clerk of Court

I hereby certify that on this _____ day of _____, 20_____, I mailed a copy of this NOTICE OF HEARING to: _____

Clerk of District Court

FORM 3 – INSTRUCTIONS FOR HEARING IN SMALL CLAIMS COURT OR REMOVAL TO DISTRICT COURT

TO THE DEFENDANT:

If you intend to contest the claim filed against you, you must request a hearing in small claims court on the reverse side of this form (**Form 3**) and file your request with the Clerk of District Court within twenty (20) days of receipt of the Claim Affidavit and this form.

If within twenty (20) days of receipt of the affidavit and forms, the court has not received a request for a hearing, a hearing will not be scheduled and judgment may be entered against you by default.

If you elect to remove the case from Small Claims Court to District Court, you must file the following with the Clerk of District Court within twenty (20) days of receipt of the Claim Affidavit and this form:

1. REMOVAL TO DISTRICT COURT - reverse side of this form (Form 3)
2. A copy of the claim affidavit (Form 2)
3. Your answer to the claim (Form 4)
4. The \$80.000 filing fee, unless waived by the court.

You must also serve the plaintiff with a copy of this Form 3, which will notify the plaintiff of your removal of the matter to district court.

NOTE: If you elect to remove the action to district court, the district court must award attorney's fees to a prevailing plaintiff.

If the Defendant appeals a District Court judgment to the Supreme Court, the Supreme Court shall award reasonable attorney's fees to the prevailing appellee.

(See the advantages and disadvantages of Small Claims Court on **Form 1**.)

NOTICE OF HEARING:

If the Defendant requests a hearing in small claims court and files the request within twenty (20) days of receipt of the Affidavit and Request Form, the Clerk of District Court will schedule a hearing to be held not less than ten (10) days and not more than thirty (30) days after receipt of the Defendant's request.

Bring all receipts and evidence related to the case and any witnesses that you wish to have testify on your behalf.

IMPORTANT: IF YOU DON'T REQUEST A HEARING, OR IF YOU REQUEST A HEARING AND DON'T COME TO COURT AT THE PLACE, TIME, AND DATE SPECIFIED, THE COURT MAY ORDER A DEFAULT JUDGMENT AGAINST YOU.

DEFENDANT'S ANSWER/COUNTER CLAIM
(See Instructions on Reverse Side)

_____, Plaintiff(s)

CASE NO. _____

vs.

_____, Defendant(s)

_____ County, North Dakota

DEFENDANT'S ANSWER

This form is to be used to notify the Small Claims Court THAT YOU INTEND TO CONTEST the Plaintiff's Claim.
Initial the statement below that applies to you:

1. _____ I do not owe the Plaintiff any part of what is claimed, for reasons stated below.
2. _____ I owe the Plaintiff only part of what is claimed, as explained below.
3. _____ I owe the Plaintiff what is claimed.

(Attach additional sheet if necessary.)

COUNTERCLAIM
(May not exceed \$15,000)

If you think you have a claim of your own against the Plaintiff, you may present your claim as part of this case and have it decided at the same time. If that is the situation, fill in the following:

PLAINTIFF OWES ME (briefly describe your claim and state your reasons): _____

A COUNTERCLAIM must be filed and delivered, or mailed by Restricted Delivery, Return Receipt, to the Plaintiff not later than 48 hours before the hearing.

I declare under penalty of perjury that the foregoing is true and correct. Dated this _____ day of _____, 20____.

_____ County, North Dakota

Defendant's Signature

RETURN TO CLERK OF DISTRICT COURT FOR FILING
A counterclaim must be filed and served upon the
plaintiff not later than 48 hours before the hearing.

FORM 4 - INSTRUCTIONS TO THE PERSON BEING SUED IN SMALL CLAIMS COURT

YOU HAVE THE FOLLOWING FIVE OPTIONS:

1. You may pay this claim by contacting the Plaintiff immediately and making arrangements for payment.
2. You may defend yourself in Small Claims Court by indicating on the Defendant's REQUEST FOR HEARING (FORM 3) that you are requesting a hearing. You must return the form to the Clerk of District Court within 20 days of receipt of the CLAIM AFFIDAVIT. You may appear on the date set for hearing without a written answer.
3. You may have the case moved to District Court.
(See the advantages and disadvantages of Small Claims Court on FORM 1.)

If the claim is not filed in your county of residence, you may have the case moved to the Small Claims Court in your county of residence. **NOTE: The case CANNOT be moved to your county of residence if certain matters are involved. See Form 1 - "Where a claim is filed".**

To move a case to district court, you must file the "Removal to District Court" (FORM 3) and serve a copy of Form 3 on the Plaintiff. You must also file a copy of the "CLAIM AFFIDAVIT" and your answer to the claim (this FORM 4) with the Clerk of Court to which the case is removed, and you must pay an \$80 filing fee unless the fee is waived by the court.

4. You may also defend yourself in Small Claims Court in writing by filing the "DEFENDANT'S ANSWER" (on the reverse side of this form) with the Clerk of the Small Claims Court and serving it on the Plaintiff at least 48 hours before the hearing.

Instructions for serving the Plaintiff are on the back of FORM 5.

5. You may file a COUNTERCLAIM (on the reverse side of this form) against the Plaintiff if you believe he/she owes you money arising out of the same transaction for which you are being sued.

To file a Counterclaim, fill out the appropriate section of this form, file it with the Clerk of the Small Claims Court and serve it on the Plaintiff at least 48 hours before the date set for hearing.

Instructions for serving the Plaintiff are on the back of FORM 5.

NOTE: The Counterclaim may not exceed \$15,000 in Small Claims Court. A Counterclaim for more money must be filed in District Court.

IMPORTANT: IF YOU DO NOT REQUEST A HEARING, OR IF YOU REQUEST A HEARING AND DO NOT COME TO COURT AT THE PLACE, TIME, AND DATE SPECIFIED, THE COURT MAY ORDER A JUDGMENT AGAINST YOU.

AFFIDAVIT OF MAILING/PERSONAL SERVICE - ANSWER/COUNTERCLAIM
(See Instructions on Reverse Side)

AFFIDAVIT OF MAILING OF ANSWER/COUNTERCLAIM TO PLAINTIFF:

Name of Person who Mailed Papers	Time Mailed <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	Date Mailed
Plaintiff(s) To Whom Papers Were Mailed	Where addressed (list each Plaintiff's name and address separately)	
	Certified mail receipt No.:	
Mailed at United States Post Office in City of	In the State of	

I declare under penalty of perjury that I am at least 18 years of age, and that at the time and on the date shown above, I deposited a true copy of the Defendant's Answer/Counterclaim in this case, securely enclosed in an envelope with certified mail postage duly prepaid, for each Plaintiff listed, at the above named United States Post Office.

Dated this ____ day of

Signature of person who mailed papers

_____, 20____.

County, North Dakota

AFFIDAVIT OF PERSONAL SERVICE OF ANSWER/COUNTERCLAIM ON PLAINTIFF:

NOTE: In cases with more than one Plaintiff, each Plaintiff must be served and a separate Affidavit of Personal Service must be filed with the court on each service.

Name of Person who Served Papers	Time Served <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	Date Served
Plaintiff(s) On Whom Papers Were Served	Address where served	

I declare under penalty of perjury that I am at least 18 years of age, not a party to or interested in the above action, and that on the time and date shown above, I personally served a true copy of the Defendant's Answer/Counterclaim in this case, on the Plaintiff whose name and address are shown above.

Dated this ____ day of

Signature of person who served papers

_____, 20____.

County, North Dakota

SMALL CLAIMS COURT _____ COUNTY, North Dakota. CASE NO. _____

PLAINTIFF _____ vs. DEFENDANT _____

INSTRUCTIONS
FOR SERVING PAPERS ON A PLAINTIFF

A copy of the Answer/Counterclaim must be served on each Plaintiff. You must serve the Answer/Counterclaim on the Plaintiff at least 48 hours before the scheduled hearing.

SERVICE MAY BE DONE IN TWO WAYS:

BY MAIL

- A. If you elect to serve papers by mail you must:
1. Send to the Plaintiff by Certified Mail with Return Receipt Requested a copy of the "Answer/Counterclaim" (Form 4).
 2. Complete the "Affidavit of Mailing" section on the reverse side of this form and have the person who mailed the forms sign in the appropriate section.
 3. Take the "Affidavit of Service" and the receipt from the post office with you to court.

OR

PERSONAL SERVICE

- B. You may serve the Plaintiff personally by:
1. Giving the forms to the sheriff to be served. (The sheriff will charge you a fee, which might be assessed against the Plaintiff if you win.)
 2. You may have another person who is of legal age and who is not a party to or interested in the case give the papers to the Plaintiff. If this is done, the person giving the papers to the Plaintiff must fill out the reverse side of this form and sign it.
 3. Take this form with you to court.

(NOTE: All parties to an action in Small Claims Court are urged to read the following law.)

NORTH DAKOTA SMALL CLAIMS COURT ACT

N.D. CENTURY CODE 27-08.1-01 through 27-08.1-08

27-08.1-01. Small claims court - Jurisdictional limits - Venue.

1. All judges of the district courts may exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of that jurisdiction must be known and referred to as the "small claims court". The jurisdiction of this court is confined to cases for recovery of money, or the cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise, where the value of the agreement or the amount claimed by the plaintiff or the defendant does not exceed fifteen thousand dollars.
2. The proceedings in this court must be commenced:
 - a. If the defendant is a corporation, limited liability company, or a partnership, in any county in which the defendant has a place of business or in any county in which the subject matter of the claim occurred.
 - b. If the claim is for collection of a check written without sufficient funds or without an account, in the county where the check was passed, or in the county of the defendant's residence or place of business.
 - c. If the defendant is an individual and the claim is for collection of an open account on which credit has been extended:
 - (1) In the county of the defendant's residence or place of business; or
 - (2) If the amount of the claim is less than one thousand dollars and is not from a telephone or mail order transaction, in the county where the transaction occurred or in the county of the defendant's residence or place of business.
 - d. If the defendant is an individual and the claim is not made under subdivision b or c, in the county of the defendant's residence.
 - e. If the defendant is an individual and the claim arose as the result of the defendant's lease of real property or as the result of a dispute over disposition of earnest money or other money deposit arising from a contract to purchase real property, in the county where the real property is located unless the plaintiff and the defendant consent in writing to a proceeding in a different county.
 - f. If the plaintiff is a political subdivision and the claim is for a public utility debt, in the county in which the political subdivision is located.
3. Except for an action under subdivision c, e, or f of subsection 2, the defendant may elect to remove the action to a small claims court in the defendant's county of residence. A claim may not be filed by an assignee of that claim. A garnishment or attachment may not issue from this court until after judgment is entered.

27-08.1-02. Commencement of action - Claim affidavit. Actions in the small claims court are commenced whenever any person executes and files with the court a claim affidavit, and causes the affidavit to be served by a person of legal age, not a party to or interested in the action, on the defendant or mails it to the defendant by certified mail with restricted delivery along with a form upon which the defendant must indicate whether a hearing is requested and whether the defendant elects to remove the action to district court. If, within twenty days of service of the affidavit and form, the court has not received a request for a hearing or an election to remove to district court, or if the defendant indicates that a hearing is not requested, a hearing will not be scheduled and judgment may be entered against the defendant by default. If the defendant requests a hearing in small claims court, the hearing must be not less than ten days and not more than thirty days after receipt of the request. Except for an action under subdivision e of subsection 2 of section 27-08.1-01, the mailing or personal service may be made anywhere within the state. Forms used in small claims court actions must be approved by the state court administrator and obtained from, or at the direction of, the clerk of district court or in electronic form from the supreme court.

27-08.1-03. Informal hearing - Answer and counterclaim - Filing and service fees - Examination of debtor. No formal pleadings other than the claim affidavit and order for appearance may be required, and the hearing and disposition of actions must be informal. A court reporter is not required to be present to take the testimony unless arranged for and paid for by one of the parties to the action. The defendant may file an answer, and file a claim affidavit setting forth any new matter constituting a counterclaim, not to exceed fifteen thousand dollars, which must be served upon the plaintiff by a person of legal age not a party to or interested in the action, or mailed to the plaintiff by certified mail, not later than forty-eight hours before the hearing set for the appearance of the defendant. The compulsory counterclaim rule does not apply to counterclaims in excess of fifteen thousand dollars. At the hearing, the plaintiff and the defendant may appear without counsel. The court will conduct the proceedings and may make its own inquiry before, during, or after the hearing. After the court has found that money is owing by any party to the proceeding, the court may, in the presence of the prevailing party, inquire of the debtor as to plans for payment of the debt. The court may examine the debtor

concerning the property owned by the debtor, at the hearing, as would be made under chapter 28-25. The examination may be made without first having issued an execution against the property of the debtor and without further notice as otherwise provided in chapter 28-25. A trial by jury shall not be allowed in small claims court. A fee as prescribed in subdivision c of subsection 1 of section 27-05.2-03 must be charged for filing the claim affidavit.

27-08.1-04. Election to proceed in small claims court irrevocable. Election by the plaintiff to use the procedures provided for in this chapter is irrevocable. In the event the plaintiff elects to discontinue the proceedings, the court shall enter its order accordingly, and unless otherwise provided in the order the dismissal must be deemed to be with prejudice. By election to proceed in small claims court, the plaintiff waives the right to appeal to any other court from the decision of the small claims court. The defendant waives the right to appeal from the decision of the small claims court upon receiving the order for appearance as required herein, unless the defendant elects to remove the action from the small claims court to district court. If the defendant elects to remove the action to district court, the defendant must serve upon the plaintiff a notice of the removal and file with the clerk of the court to which the action is removed a copy of the claim affidavit and the defendant's answer along with the filing fee, except for an answer fee, required for civil actions. If the defendant elects to remove the action from small claims court to district court, the district court shall award attorney's fees to a prevailing plaintiff. If the defendant appeals a district court judgment to the supreme court, the supreme court shall award reasonable attorney's fees to the prevailing appellee.

27-08.1-04.1. Dismissal without prejudice. If the judge determines at any stage of the proceedings that the case may not be fairly disposed of in small claims court, the judge may dismiss the case without prejudice. A determination that a case may not be fairly disposed of in small claims court must be based on complexity of factual or legal issues or a determination that relief other than money damages or cancellation of an agreement is necessary to dispose of the case. If a case is dismissed under this section, the filing fee must be refunded to the plaintiff.

27-08.1-05. Judgment. The court shall enter a written judgment indicating its decision on all cases filed with the court on the basis of the evidence presented. A judgment must be entered even if either party fails to appear at the hearing. The court may award the costs of the action to the prevailing party. For purposes of enforcement and execution, a judgment of the small claims court has the same force, effects, and attributes of a judgment of the district court.

27-08.1-06. Judgment unsatisfied - Docketing - Execution. Repealed by S.L. 1997, ch. 263, § 5.

27-08.1-07. Records and destruction of records. Unless otherwise authorized by rules of the supreme court, records of the small claims court consist of all documents filed in each action and an index for plaintiffs and defendants. Unless otherwise directed by rules of the supreme court, after the judgment is satisfied or becomes ten years old, the court may destroy all papers filed in the case, except the judgment. At the time of destroying the papers, the clerk of court shall make a record upon the judgment identifying the papers destroyed and the dates the papers were filed.

27-08.1-08. Referees of small claims court - Appointment - Term - Method of qualifying - Powers and duties - Compensation. The presiding judge of the judicial district may appoint a referee of the small claims court who shall hold office at the pleasure of the judge. The referee shall qualify in the same manner as other civil officers, except that the referee need not be a qualified elector of the county, and the duties and powers of the referee in the conduct of trials in the small claims court are governed by the provisions of rule 53(c), North Dakota Rules of Civil Procedure, insofar as those provisions are not in conflict with the provisions of this chapter. The referee appointed must be a person versed in the law. The presiding judge shall determine the salary or fee of the referee, within the limits of legislative appropriations.